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*Attorneys for Defendant Martin Wade*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                  |                        |
|------------------|------------------------|
| -----X           |                        |
| MICHAEL GARDNER, | :                      |
|                  | :                      |
| Plaintiff,       | : Case No.: 08-cv-2850 |
|                  | :                      |
| -against-        | : (Stanton, J.)        |
|                  | :                      |
| MARTIN WADE III, | :                      |
|                  | :                      |
| Defendant.       | :                      |
| -----X           |                        |

PLEASE TAKE NOTICE, that upon the accompanying Declaration of Michael P. Zweig, with exhibits, dated May 21, 2008, the accompanying Declaration of Leslie Marlow, with exhibits, dated May 21, 2008, and the accompanying memorandum of law, Defendant Martin Wade, by his attorneys Howrey LLP, will move this Court as soon as counsel can be heard before Hon. Louis L. Stanton at the United States Courthouse located at 500 Pearl Street, New York, New York 10007 for an Order pursuant to Rule 12(b)(6), Rule 12(b)(2) and Rule 12(b)(5) of the Federal Rules of Civil Procedure dismissing the complaint in this action or, in the alternative, for an Order pursuant to 28 U.S.C. §1404 transferring this action to the United States District Court for the Central District of California.

PLEASE TAKE FURTHER NOTICE that, pursuant to agreement of counsel, answering papers shall be filed and served no later than June 4, 2008.

Dated: New York, New York  
May 21, 2008

HOWREY LLP

By: /s/  
Michael Armstrong (MA-8570)  
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